

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Liberty Mfg., Inc.  
2233 East 16<sup>th</sup> Street  
Los Angeles, California 90670

EPA ID# CAD008252959

Respondent

Docket No: HWCA 20030377

CONSENT ORDER

Health and Safety Code  
Section 25187

The State Department of Toxic Substances Control (Department) and Liberty Mfg., Inc. (Respondent) enter into this Consent Order and agree as follows:

1. Respondent is a scrap metal recycler that accepted, transported, and stored hazardous waste at 2233 East 16<sup>th</sup> Street, Los Angeles, California 90670 (Site).

2. The Department inspected the Site on October 30, 2003.

3. The Department alleges the following violations:

3.1. Respondent violated title 22, California Code of Regulations, section 66263.23, subsection (b), in that on or about May 27, 2004, Respondent transported hazardous waste (range lead containing fine powders) in three 30-gallon metal drums from Firing-Line Indoor Shooting and Training Range, Inc. (Firing-Line) in Northridge, California to the Site in Los Angeles. The Site is not authorized by the Department to receive hazardous waste.

3.2. Respondent violated California Health & Safety Code sections 25163, subdivision (a), and 25160, subdivision (d)(1) in that on or about May 27, 2004, Respondent transported hazardous waste (range lead containing fine powders) in three 30-gallon drums without a uniform hazardous waste manifest.

3.3. Respondent violated California Health & Safety Code section 25201 in

that:

a) between October 3, 2003, and October 30, 2003 (28 days), Respondent stored at its Site eighteen (18) 5-gallon containers and two 55-gallon drums of lead solder dross (hazardous waste) from off-site without possessing proper authorization from the Department.

b) between August 18, 2003, and October 30, 2003 (74 days), Respondent stored at its Site approximately 26,000 lbs (16 drums) of hazardous waste (range lead waste containing fine powders) received from Sackin Metals, Inc. (Sackin) without possessing proper authorization from the Department.

3.4. Respondent violated California Health & Safety Code, section 25163, subdivision (a) (1) in that:

a) on a number of occasions between May 2001, and January 2002, Respondent transported 142,000 lbs of lead dross (hazardous waste) without the requisite insurance and holding a valid registration issued by the Department.

b) on or about May 27, 2004, Respondent transported three 30-gallon drums of hazardous waste (range lead containing fine powders) from Firing-Line without the requisite insurance and holding a valid registration issued by the Department.

3.5. Respondent violated California Health & Safety Code section 25201 in that on or about November 13, 2003, Respondent treated 18 buckets and two 55-gallon drums of lead solder dross (hazardous waste) received from Industrias Conquest SA de CV in Mexico. Respondent is not authorized by the Department to treat hazardous waste at the Site.

3.6. Respondent violated title 22, California Code of Regulations, sections 66263.23, subsection (a) and 66263.23, subsection (c) in that on or about November 18, 2003, Respondent disposed of hazardous waste by placing several gallons of floor sweep containing fine powders of heavy metals into a roll-off bin for municipal trash located at the Site.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Respondent admits the allegations made in Section 3 of the Consent Order.

#### SCHEDULE FOR COMPLIANCE

10. Respondent shall comply with the following:

10.1. Compliance Conditions:

10.1.1. Effective immediately, Respondent shall not accept hazardous waste from a generator unless it is accompanied by a manifest completed and signed in accordance with applicable California Statutes and Regulation, such as the Hazardous Waste Control Law and California Code of Regulations, Title 22.

10.1.2. Effective immediately, Respondent shall not transport hazardous waste, including shooting range lead waste containing fine powder, unless it holds a valid registration issued by the Department and obtains adequate liability insurance coverage.

10.1.3. Effective immediately, Respondent shall transport any hazardous waste only to a hazardous waste facility authorized by the Department to accept the waste.

10.1.4. Effective immediately, Respondent shall not accept hazardous waste at its Site unless it first applies for and obtains a hazardous waste facility permit or other grant of authorization from the Department.

10.1.5. Effective immediately, Respondent shall not store or treat hazardous waste at its Site, including shooting range lead waste, unless it first applies for and obtains a hazardous waste facility permit or other grant of authorization from the

Department.

10.1.6. Effective immediately, Respondent shall dispose of hazardous waste only at a hazardous waste facility authorized by the Department to accept the waste.

10.1.7. Respondent hereby agrees to send one (1) employee to the California Compliance School, Modules I through IV. Attendance must be completed and Respondent must submit the Certificate of Satisfactory Completion issued by the California Compliance School to the Department within 185 days of the effective date of this Order. The 185-day period may be extended by a Department Branch Chief upon a written request from the Respondent demonstrating good cause and received prior to the expiration of the 185 day deadline. During the negotiations to settle this matter, two of the Respondent employees have successfully completed the California Compliance School Modules.

10.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Florence Gharibian, Chief  
Enforcement & Emergency Response Program  
Department of Toxic Substances Control  
9211 Oakdale Avenue  
Chatsworth, California 91311

10.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to the Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of their obligation to obtain such formal approvals as may be required.

10.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to

this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

10.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.8. Site Access: Access to the Respondent Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Respondent Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Sites; reviewing the progress of Respondent in

carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

10.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent

pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

### PAYMENTS

11.1. Respondent shall pay the Department a total of \$40,000 as an administrative penalty, payable in quarterly installments. Respondent shall pay the \$40,000 to Department in one (1) installment of \$2,000 and eight (8) quarterly installments of \$4,750.

11.1.1. The first installment in the amount of \$2,000 is due and payable on December 1, 2008. Each quarterly payment of \$4,750 is due and payable on the following dates:

- \*February 15, 2009;
- \*May 15, 2009;
- \*August 15, 2009;
- \*November 15, 2009;
- \*February 15, 2010;
- \*May 15, 2010;
- \*August 15, 2010;
- \*November 15, 2010.

11.1.2. Any installment payment that is received by the Department more than 15 days after it is due will be subject to an additional \$250 administrative penalty, such penalty shall be paid by Respondent no later than the due date of the next installment payment. If Respondent is late in making two (2) or more payments, or fails to make a full installment payment within thirty (30) days of its

due date, then the Department, at its option, may declare the entire balance of the outstanding penalty due and owing. If Respondent fails to make any payment timely as provided above, Respondent agrees to pay interest thereon at the rate established pursuant to Health and Safety Code section 25360.1. Respondent further agrees to pay all costs and attorneys' fees incurred by the Department in pursuing the collection of any delinquent payments.

11.2. Respondent's checks shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street (MS-21A)  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of each check shall be sent simultaneously to:

Florence Gharibian, Chief  
Enforcement & Emergency Response Program  
Department of Toxic Substances Control  
9211 Oakdale Avenue  
Chatsworth, California 91311

and

Vivian Murai, Senior Staff Counsel  
Office of Legal Counsel  
Department of Toxic Substances Control  
1001 I Street (MS-23A)  
P. O. Box 806  
Sacramento, California 95812-0806



## OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and their officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: 10/31/08

Original signed by Gustavo "Rudy" Martinez  
Mr. Gustavo "Rudy" Martinez, President  
Respondent

Dated: 11/10/08

Original signed by Florence Gharibian  
Florence Gharibian, Chief  
Enforcement & Emergency Response Program  
Department of Toxic Substances Control